HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

WRIT PETITION No.4546 OF 2001

Between:

K.Subash Reddy

. . .Petitioner

AND

The Bharat Sanchar Nigam Limited and others

. . .Respondents

:: ORDER ::

Counsel for the petitioner : Shri S.Lakshma Reddy

Counsel for the respondents : None

Dated: 25th July, 2007

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This petition involves challenge to the bill raised by the authorities of Bharat Sanchar Nigam Limited (for short, 'the Nigam') requiring the petitioner to pay Rs.60,364/-.

The petitioner was allotted STD/PCO with registration No.BWP/STD/PT/Indv./155, dated 15.2.2000 issued by Commercial Officer, PTS (North), Secunderabad (respondent No.2 herein). After completing the formalities, the petitioner established STD booth on Plot No.4, Brindavan Colony, Old Bowenpally, Secunderabad. He was given telephone No.7753610. He paid bills issued by the concerned authority of the Nigam for the periods from 1.5.2000 to 15.5.2000 and 15.5.2000 to 31.5.2000. After sometime, the concerned authority issued the impugned bill and created demand of Rs.60,364/- towards the called units for the period from 16.6.2000 to 28.2.2001.

The petitioner has challenged the demand by making the following assertions:

> "After the installation of the booth, the respondents have issued two fortnightly bills one from 01.5.2000 to 15.5.2000 for a sum of Rs.2,883/- through bill dated 20.5.2000 after deducting the fortnight commission admissible on the called units. I paid the said amount through receipt No.1268642. Again for the second fortnight from 15.05.2000 to 31.5.2000 another bill was issued through bill dated 05.6.2000 for an amount of Rs.2,866/- after deducting the fortnight commission. The same was also paid by me through receipt No.1379078. Thereafter, the respondents have changed my telephone booth Number from 7753610 to the present number i.e. 7959091. Thereafter, the respondents started sending the bills only @ Rs.1680/- and I have paid the amounts demanded upto date. When I inquired from the department why they were sending the bills for an amount of Rs.1,680/- only without reference to the called units,

the third respondent and his staff in the office have informed me that there is a technical problem and the bills will be adjusted on a future date. But to my utter surprise, the respondents have issued the impugned bill for a sum of Rs.60,364/- saying that the called units from 16.6.2000 to 28.2.2001 are at 59180 and the entire called units are calculated without any deduction of the amounts already paid by me every month. It is submitted that as per my calculation, the total collections made by me during the period was only approximately Rs.37,000/- of which I am entitled for a deduction of Rs.10,637/- paid by me during the period and the next amount, which was calculated and remained unpaid is only approximately Rs.27,000/-. But the present bill is issued for Rs.60,364/-. It is not known how they have arrived at the gross called units at 59189 and it is also not known for what technical reason the respondents could not issue every fortnightly bill. It is submitted that the impugned demand notice is without any notice or opportunity to me to explain the facts to the respondents and now I am ready to establish through proper accounting that the said bill amount is totally unrealistic, unjustified and not based upon the correct facts. It is submitted that the impugned bill is totally arbitrary and amounts to confiscation of the property without due process of law and in violation of Articles 14, 21 and 300-A of the Constitution of India and also in violation of the principles of natural justice."

While issuing notice to the respondents on 19.3.2001, this Court passed the following interim order:

"There shall be an interim stay of recovery and direction not to disconnect the telephone Booth No.7959091 for non-payment of the amount pursuant to the impugned bill, subject to the condition of the petitioner depositing a sum of Rs.27,000/- (Rupees twenty seven thousand only) within four weeks from today.

Notice.

Mr.K. Jaganmohan Reddy, learned Addl. Central Government Standing Counsel submits that it is a matter which requires further and deeper probe. <u>According to the instructions received by him, such a bill has been sent to the petitioner due to some technical problems</u>. The petitioner cannot be held responsible for the same. At any rate, the learned Standing Counsel requests four weeks time for filing counter."

Although the writ petition has been pending for last more than

six years, the respondents have not filed affidavit to controvert the averments contained in the writ petition. Not only this, none has appeared on their behalf and produced record to show that the averments contained in the petitioner's affidavit are factually incorrect.

I have heard Shri S. Lakshma Reddy. In my opinion, the impugned demand is liable to be quashed because, as per the respondents' own showing, the bill was issued due to technical problems. The statement made by the learned Additional Central Government Standing Counsel on 19.3.2001 is, by itself, sufficient for nullifying the demand. Ordered accordingly.

The writ petition is allowed in the manner indicated above.

G.S.SINGHVI, CJ

25th July, 2007

svs